

• • R E M A R K S / A R G U M E N T S • •

The Official Action of November 28, 2005 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following comments, are believed to be sufficient to place the application into condition for allowance.

The specification stands objected to under 37 CFR 1.182(d) for failing to provide proper sequence identifiers, e.g. SEQ ID NO:.. The Amendments to the Specification and to the Claims incorporate the correct sequence identifiers as required by 37 CFR 1.182(d) and are believed to identify the sequences in proper form to overcome this objection. The amino acid sequences are also hereby submitted with this Amendment in Computer Readable Format on a separately mailed diskette in accordance with 37 CFR 1.824.

Claims 3-8 were rejected under 35 U.S.C. §112, first paragraph for the recitation of new matter for reciting GeneBank LocusID: 4018. As the Amendment to the Specification in paragraph 38 indicates, GeneBank LocusID: 4018 is the formal assigned identification for the sequence filed by applicants with GeneBank and originally identified as AY039748 in the originally filed specification. Because this same sequence was identified from the outset as AY039748, it does not constitute new matter and the rejection should be withdrawn.

Claims 3-8 also stand rejected for lack of written description with respect to the genus of purified peptides and their structure and functionality. Claims 3-8 have been amended such that the purified peptides of the claims are based on the amino acid sequences identified in the claims. It is believed that these amendments to the claims overcome this rejection.

Claims 3-8 are also rejected under 35 U.S.C. §112, second paragraph as indefinite for failing to use proper sequence identifiers. These claims have been amended to use the proper sequence identifiers in accordance with 37 CFR 1.821(d) and are believed to be in allowable form in light of the amendments. Entry of the changes to the claims and specification is respectfully requested.

Claims 3-8 stand rejected as anticipated under 35 U.S.C. §102 by Kundu et al. (U.S. Patent No. 6,210,906 B1) (hereinafter "the Kundu reference") because the Kundu reference teaches the functionality of anti-angiogenic peptides. For the reasons set forth below, it is submitted that all of the pending claims are allowable over the Kundu reference and therefore, the outstanding rejection of the claims should properly be withdrawn.

The Kundu reference is directed to the kringle 5 structure of lipoprotein(a) (Apo(a)) and does not concern kringle 38, the kringle disclosed in the instant application. While the Kundu reference teaches anti-angiogenic peptides, it does not teach anti-angiogenic peptides based on any of the amino acid sequences SEQ ID NO: 1 to SEQ ID NO: 9 listed in the current application. Claims 3-8 have been amended such that the purified peptides of the claims are based on the amino acid sequences identified in this application. The amino acid sequences claimed in this application which serve as a basis for the anti-angiogenic peptides are not disclosed or taught in the Kundu reference.

Accordingly, Kundu et al. does not anticipate applicants' claimed invention.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is

respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and is neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn. Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an allowance of the claims is believed to be in order. It is believed that the above represents a complete response to the Official Action and reconsideration is requested. If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

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